

November 17, 2008

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TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS  
NOVEMBER 17, 2008

MEMBERS PRESENT: KATHLEEN LOCEY, ACTING CHAIRMAN  
FRANCIS BEDETTI, JR.  
PAT TORPEY

ALSO PRESENT: MICHAEL BABCOCK  
BUILDING INSPECTOR

ANDREW KRIEGER, ESQ.  
ZONING BOARD ATTORNEY

MYRA MASON  
ZONING BOARD SECRETARY

ABSENT: MICHAEL KANE, CHAIRMAN  
JAMES DITTBRENNER

REGULAR\_MEETING

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MS. LOCEY: I'd like to call to order the November 17,  
2008 meeting of the New Windsor Zoning Board of  
Appeals.

NEW-GEN\_CONSTRUCTION\_(JAMES\_FINI)\_(FOR\_OMAT,\_INC.)\_

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#08-37  
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MS. LOCEY: The first item on the agenda is a preliminary hearing for New-Gen Construction, James Fini for Omat, Inc. Is there anyone here for that application? Seeing that there isn't, we'll go on to our one and only public hearing scheduled for this evening.

PUBLIC\_HEARINGS:

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GLODE\_NEON\_SIGNS\_(FOR\_NEW\_WINDSOR\_REALTY\_GROUP\_LLC)\_  
\_\_\_\_\_  
#08-35  
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MS. LOCEY: Application of Glode Neon Signs for New Windsor Realty Group LLC. request for a variance of well three variances, 126 square feet for one freestanding sign and 1 foot 9 inch height for one freestanding sign and 5 foot width for 14 wall signs each tenant at 145 Windsor Highway. And if you will give your name to our stenographer for the record.

MS. FORREST: Nancy Forrest.

MS. LOCEY: And if you would explain to the board just exactly what it is you would like to request.

MS. FORREST: Yes, when I was here last time I had two variances in front of you, one for the freestanding sign which is the 126 square foot, the overage on that is not sign size, it's the encompassed poles and header for the sign, instead of putting steel I-beams we're putting them in columns that match the building so that it looks attractive and your ordinance calls that signage even though it has lettering on it so that's what that's for. The building the way it's built the facade the height of it you have a limit in length which is 10 feet and we're doing a much shorter letter than you allow because we have to, therefore, we need the additional length. And then while I was here they allowed me very nicely to add the remainder of the tenant signs for the same type of square foot 15 foot in length if needed and I can tell you that these seven stores around the back are not going to need it but because they're a different front I couldn't go 15 foot if I wanted to. But if I, you know, if anything changes on that then I'd have to.

MS. MASON: We're changing the 14 to 7?

MS. FORREST: No, I'm going to leave it as it is.

MS. LOCEY: Even though she doesn't feel she needs it.

MS. FORREST: That we're going to need it. I did bring also the pictures that you requested, the better pictures if you want to start those, those are from each direction, I took my life in my hands out in the middle of road.

MS. LOCEY: And the enhanced photos are to show that the signs--

MS. FORREST: The location that it is it's considerably off the road and that it's also kind of down from the road, that's the second variance on the freestanding sign a little bit more height because if you look at those photos, I didn't mark it out but if you look where the fire hydrant is we're within a few feet of that but I have already cleared my location with all the utilities and with the fire inspector.

MS. LOCEY: So there are no easements in the area where that freestanding sign will go?

MS. FORREST: No, I'm good.

MS. LOCEY: And just for the record, the fire hydrant is back from the road quite a bit so it doesn't appear as if any freestanding sign in that location would at all infringe or impede--

MS. FORREST: No, not at all. In fact, you have almost three car lengths in front of it that would be pulling out of the center.

MS. LOCEY: Any other comments or questions from the board?

MR. BEDETTI: Now, the freestanding sign is going to be a composite sign, in other words, like a directory?

MS. FORREST: Like a ladder with each tenant having equal space.

MR. BEDETTI: It does not obstruct the view of vehicles leaving the parking lot?

MS. FORREST: No, not at all.

MR. BEDETTI: Line of sight is clear?

MS. FORREST: Yes.

MS. LOCEY: That's what she was saying, those new photos that we just got show where this sign, the proposed sign will be right near that fire hydrant. At this point, I will open it up to the public and ask if there's anyone here to speak on this particular application? Being that there's not, we'll close the public portion and Myra can you tell me if you had any mailings.

MS. MASON: On the 5th day of November, we mailed out 10 addressed envelopes and had no response.

MS. LOCEY: Any other questions or comments? With that, I will accept a motion.

MR. BEDETTI: I will make a motion that we grant the Glode Neon Signs for the New Windsor Realty Group a variance or request for 126 square feet for a freestanding sign, 1 foot 9 inch height for one freestanding sign and 5 foot width as requested for 145 Windsor Highway in a C zone.

MR. TORPEY: I'll second that.

ROLL CALL

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MR. BEDETTI	AYE
MR. TORPEY	AYE
MS. LOCEY	AYE

MS. FORREST: Thank you very much, appreciate all your help.

NEW-GEN\_CONSTRUCTION\_(JAMES\_FINI)\_(FOR\_OMAT,\_INC.)\_

#08-37

MS. LOCEY: New-Gen Construction, James Fini preliminary meeting. Anyone arrived for the preliminary meeting for New-Gen Construction?

MR. BACH: Yes, good evening, my name is John Bach, Jr.

MS. LOCEY: Would you give your name and address for the record?

MR. BACH: John Bach, 20 Scotchtown Avenue, Goshen, New York, attorney for New-Gen Construction, Inc. he's the applicant.

MS. LOCEY: Just so that you know if you've not been in front of the New Windsor Zoning Board of Appeals, it's a two step process, this being the first step obviously so if you tell us what it is you're looking for we can tell you what we would need before we go to public hearing.

MR. BACH: I believe the board has copies of a survey map and the plot plan. My clients contracted to construct a single family residence dwelling on the property owned by Omat, Inc. As you can see on the plot plan, there are two tax lots involved, one comes out on Ash Street and the other on Birch Drive and the property is seriously irregular in shape and the application is to obtain several variances to enable a single family residence to be erected on that parcel combining the two. And speaking with the builder and looking at the house that they're, that the buyer wants, he felt that this was the most efficient way to locate the house in trying to minimize the variances that were requested. As the board can see, the one tax parcel that comes off Ash Street you can never build anything on that but we have attempted to locate the house in such a way to utilize the larger of the two

parcels and to see if a single family residence could be erected on it. It's my understanding that previously this board had approved an area variance for this parcel but apparently it had expired, the owner had not been able to find a perspective customer to buy the lots to build a house on. Obviously, the parcel could not be used for any other use other than for a single family residence and based upon the layout of these lots how they were approved that way in the first place is anybody's guess but we're trying to maximize the usable portion of the property and we'd ask that the board consider scheduling a public hearing on the variance request.

MS. LOCEY: So this is a vacant parcel of land that's somewhat C shaped and irregular?

MR. BACH: Yes, there are two tax lots parcels there, 6.1 and 6.2 and we're basically utilizing both those parcels to develop the property.

MR. TORPEY: Putting two houses?

MR. BACH: Just one.

MR. KRIEGER: Combining two lots to make one house and put one house.

MR. BACH: And that certainly could be a condition if the board chose to grant the area variances that the two tax lots could be combined so there can never be an application to come back and build another house on the other tax lot.

MS. LOCEY: All right, with the construction of this home, well, first of all, are there any easements anywhere where this proposed house would be constructed?

MR. BACH: Not to my knowledge, we'll certainly provide



to the board at the time of the public hearing any title search that would address any easements. There are none shown by the engineer on the plot plan.

MS. LOCEY: Any substantial trees or vegetation being removed?

MR. BACH: I do not believe so. I believe the property is relatively vacant but certainly that issue can be addressed likewise.

MS. LOCEY: Would any water or drainage issues be created with the construction of this proposed dwelling?

MR. BACH: It will not be.

MS. LOCEY: Board members have any questions or comments?

MR. BEDETTI: I have one question regarding the minimum lot area identified here proposed for roughly 55,000 square feet per the permitted requirement is 80,000 now the 55,000 is that the sum of the two parcels?

MR. BACH: That's the sum of the two.

MR. BEDETTI: The 1.9 acres that seems low 80,000 square feet is roughly a two acre lot, this is 1.9 acres, sounds like kind of light.

MS. LOCEY: I thought it was 1.262 acres, am I not correct with that?

MR. BACH: My understanding that's the size of the lot that the house is to be located on.

MS. LOCEY: Says 1.9 acres here and on your plot plan it says area is 1.262 acres.

MR. BACH: Yes, that's the actual buildable parcel.

MS. LOCEY: Why would that be?

MR. KRIEGER: I'm looking for a companion if it's 1.262 where the house is what's the other one?

MR. BACH: Surveyor has not located that area on there but we can provide that.

MS. LOCEY: I think if you look on this the whole, the sum of the two is this not the same as this although it doesn't, I'm sorry.

MR. BACH: This is the entire, this is those two parcels together, that's correct.

MS. LOCEY: What's on this plot plan?

MR. BACH: Apparently, what the surveyor did is he just sized the one tax lot without combining the two, that's apparently why your area requirements are--

MR. TORPEY: He didn't combine anything.

MR. BABCOCK: I can sum that up, the tax map shows that this property is on Birch and Ash Drive so all the way out Ash is there, the highlighted area you just showed doesn't include Birch and/or Ash Street so that's the difference in the numbers.

MR. BACH: Yes, as I see the 1.622 covers that part and that green carries the whole parcel, if you follow the plot plan it shows out to Ash.

MS. LOCEY: I see it now.

MR. BEDETTI: Is there an intention to combine those two lots?

MR. BACH: There certainly would be because there's certainly no reason I can ever see that they can ever attempt to build on the other lot and that's certainly we'd have no problem that that be a condition of your approval or the board's consideration as a condition.

MR. BABCOCK: Do you have a separate survey cause all my paperwork shows it as one lot, one tax map lot, one section, block and lot, everything?

MR. BACH: I just have what references are shown on the survey, the surveyor makes reference to two tax lots, 6.1 and 6.2.

MR. BABCOCK: That was consolidated January 23, 2000 looks like 3 that was combined.

MR. KRIEGER: If this parcel, the owner of this parcel also owns Ash and Birch Street and this variance is granted what's going to happen to Ash and Birch Street, are they privately owned or are they--

MR. BABCOCK: They are private roads, they are owned by this gentleman.

MS. LOCEY: So Birch Drive goes right--

MR. TORPEY: Two dead end drives.

MS. LOCEY: Is this a paper road? If you look on this--

MR. BABCOCK: Well, there's houses on there.

MS. LOCEY: The plot plan though Birch Drive goes right through right to where the proposed house would be located.

MR. BACH: It terminates at that point because you've got the pond in back of it but there are houses off

Birch that come up to the subject property.

MS. LOCEY: I understand that.

MR. BACH: Access would not be over Ash.

MS. LOCEY: If indeed this is one parcel to the 1.9 acres I think at public hearing we should have an updated plot plan indicating that.

MR. BEDETTI: I agree with that, I mean, that makes your request in my mind a little more favorable.

MR. BACH: That's not a problem.

MS. MASON: Do you have the subdivision plan?

MR. BABCOCK: Well, it's a tax map.

MS. MASON: In your file do you have the subdivision plan?

MR. BABCOCK: No, this was done long before subdivisions were filed, that's just the left over piece.

MR. BEDETTI: Does your client actually own this?

MR. BACH: My client doesn't own it, I'm just representing the builder, Omat in itself has owned it I believe for several years but again we can provide that information to you.

MR. BABCOCK: This was Omat's property all through here and when he subdivided these houses he left the house here and he owned this whole piece of property, he owned all the way out to Birch all the way out to Ash. So right now this gentleman owns all the way out to here and out to here and goes around this piece of property, comes through and in 2003 according to my

paperwork it was consolidated, those two lots.

MS. LOCEY: Well, we would just--

MR. BEDETTI: So it is consolidated?

MR. BABCOCK: According to my records it could have been by deed it could have been split again.

MR. BACH: According to the records they're continuing to have the two separate tax lots, tax bills for both.

MS. MASON: Isn't it split by a school district line?

MR. BACH: It splits the property.

MS. MASON: So that's not a separate lot then.

MR. BABCOCK: Your school district can't go across the property, it's got to have a property line, school district cannot be across the piece of property without a property line, that's why we have lot 1 and lot 2 on Dean Hill Road.

MS. LOCEY: Is that the same situation here? Well, no, but that would need to be clarified for the public hearing either it's one large parcel 1.9 or it's two separate ones.

MS. MASON: It says right on here part of 7.

MR. BACH: That's a reference to the subdivision plot 7.

MR. BABCOCK: That's right.

MS. LOCEY: If there are no further comments, I'll accept a motion.

MR. BEDETTI: I will make a motion that we schedule a

public hearing for the New-Gen Construction, client I believe is Omat, Inc. or owner for a minimum lot area 25,000 square feet, unless that's updated, 68.79 foot minimum lot width, 19 feet side yard setback, 25 1/2 foot side yard setback and 25 1/2 foot total side yard setback for proposed single family dwelling at I believe it's Birch Drive in an R-3 zone as requested.

MR. TORPEY: I'll second that.

ROLL CALL

MR. BEDETTI	AYE
MR. TORPEY	AYE
MS. LOCEY	AYE

MR. KRIEGER: Do we have a proxy as well?

MS. MASON: Yes, we do.

MR. BEDETTI: If you can determine, Mike, if we can determine when this current owner when he bought that property when he became the owner of that property, was it before zoning changes, after zoning changes?

MR. BABCOCK: The gentleman that owns it right now I don't know.

MR. BEDETTI: When you come with the information find out when the current owner obtained the ownership of that property.

MR. BACH: I have that written down, he raised that question before.

MS. LOCEY: I think the board would stipulate it would have to be combined and only this one structure will be considered, no additional ones in the future.

MR. BACH: No problem with that.

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DISCUSSION

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AVAN\_REALTY,\_LLC\_#08-10

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MS. LOCEY: Okay, discussion Avan Realty, LLC, Haig Sarkissian.

Mr. Haig Sarkissian appeared before the board for this proposal.

MS. LOCEY: Request for one additional freestanding sign at 140 Executive Drive in a PI zone. State your name for the stenographer.

MR. SARKISSIAN: My name is Haig Sarkissian with Avan Realty. In July, we received conditional approval I believe from the zoning board to place a sign at the corner of Executive Drive and Route 300 and you had asked that we go and obtain permission from the owner of the land and the sign to attach our sign to an existing sign. We have attempted to do that, the owner has given us approval in writing which we have submitted to the board. The owner of the sign has requested a very high amount of money to allow us to use his posts, he asked for \$10,000 to allow us to use their posts. So instead, we have come up with our two little posts underneath that we would place under the posts so that we would not physically touch their posts and still end up putting the sign exactly where we intended. I provided Myra with a diagram of that arrangement and I have a picture here to pass around which would accomplish I believe the same goal.

MS. LOCEY: I don't have a copy of the minutes from our previous meetings about this sign, Myra, can you refresh my memory did we give him conditional approval?

MS. MASON: We did, we gave him conditional approval. We gave him approval but he was to come back to us for the final size of the additional sign in case he needed



a variance for that.

MS. LOCEY: We said there could not be a third freestanding sign but if he could receive permission we would allow almost that ladder affect that the previous sign applicant discussed.

MS. MASON: But he had to come back in case he needed a variance for the size of the sign that he was adding.

MS. LOCEY: So now you're telling us that the owner of the existing sign wants an exorbitant amount of money to attach to his posts?

MR. SARKISSIAN: Correct.

MS. LOCEY: So instead of doing that you propose to put in your own posts underneath within the confines?

MR. SARKISSIAN: According to that drawing.

MS. LOCEY: And that's Highland Ophthalmology sign with the eye, is that correct, that would be the sign this blue portion?

MS. MASON: Right.

MR. TORPEY: And they're going to be happy with that you going under that sign like that?

MR. BABCOCK: They don't have a choice as long as it's not touching.

MR. TORPEY: How much rent did they want?

MR. SARKISSIAN: \$15,000.

MS. LOCEY: A year?

MR. SARKISSIAN: One time \$15,000 and the cost of

placing the sign is 2,200, I have received quotations from others.

MS. LOCEY: It's the blue Highland Ophthalmology underneath. What's the pleasure of the board? Any questions, comments, concerns?

MR. TORPEY: It still looks like what we approved just not connected.

MR. SARKISSIAN: Correct.

MR. BEDETTI: Is the physical size of the sign larger than what was approved?

MR. SARKISSIAN: It's identical to the other signs and identical to the 64 feet maximum allowed.

MR. BEDETTI: It's within the requirements?

MR. BABCOCK: Yeah, he doesn't need a variance for it.

MS. LOCEY: And there are no legal issues regarding this?

MR. BABCOCK: The only legal issue is he's not attaching it, he's putting posts underneath and he wants the board's blessing and that's it.

MR. BEDETTI: Now, somebody else actually owns the property, Finkelstein and Partners I assume owns the red sign on the top and the owner of the property is separate from Finkelstein and he said it's okay to use the land.

MR. TORPEY: Yeah, he was here.

MS. LOCEY: You have written authorization from the landowner?

MR. SARKISSIAN: Yes.

MR. BABCOCK: He even came in, Bill Helmer came in.

MR. TORPEY: But it looks like exactly what we approved in the first place.

MR. SARKISSIAN: I have signed written copies which you have on file.

MR. KRIEGER: So all that's required is an agreement by the board members that this sign is as portrayed in the picture is in compliance with the variance previously granted and complies with it.

MR. TORPEY: Looks good to me.

MR. KRIEGER: It does comply?

MR. TORPEY: Yes, it complies.

MS. LOCEY: Do we need a motion?

MR. BEDETTI: Does that road go through?

MR. BABCOCK: No.

MS. LOCEY: So I think I'll accept a motion by the board just indicating that this conceptually fits the variance as previously approved only without attaching to the existing sign.

MR. BEDETTI: You know that there is no legal issue with Finkelstein because--

MR. BABCOCK: Bill Helmer owns the property and he's giving them, approving the permission.

MR. BEDETTI: And Helmer's agreed to let you do it that way?

MR. BABCOCK: That's correct.

MR. SARKISSIAN: Yes.

MR. KRIEGER: There's no legal issue with the Zoning Board of Appeals, Finkelstein has a complaint with somebody else, let them complain.

MR. TORPEY: It's exactly as we approved.

MR. BEDETTI: Why do we need to make a motion?

MS. LOCEY: Because it's not attached.

MR. BABCOCK: You approved it but when he was going to attach it to the sign he needed an area variance because the sign would have to be bigger to attach to the other guy's pole, so the only variance he needs from you guys is to have three signs.

MR. BEDETTI: So the original request is actually changing?

MR. BABCOCK: That's correct, he only needs a variance for one additional sign on that lot.

MR. BEDETTI: I will make a motion that we grant Avan Realty the request for additional freestanding sign at 140 Executive Drive and that the configuration is consistent with our original variance.

MR. TORPEY: I'll second that.

ROLL CALL

MR. BEDETTI	AYE
MR. TORPEY	AYE
MS. LOCEY	AYE

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MS. LOCEY: With that, conclusion of our meeting.  
Motion to adjourn.

MR. TORPEY: So moved.

MR. BEDETTI: I'll second that.

ROLL CALL

MR. BEDETTI	AYE
MR. TORPEY	AYE
MS. LOCEY	AYE

Respectfully Submitted By:

Frances Roth  
Stenographer  
11/19/08

